

DISPOSITION: On 11-1-63, (the original libel having libeled only 121 cases of canned peaches) Southern States Canning Co., filed a motion for an extension of time within which to file responsive pleadings which motion represented, in part, that the Southern States Canning Co., was advised that the United States marshal had seized 550 cases of peaches; that the United States attorney was amending the original information of libel to read 550 cases of peaches rather than 121 cases of peaches, that the United States Food and Drug Administration had not condemned more than 121 cases of peaches and that the United States marshal acted without authority in the seizure of cases in excess of the 121 cases condemned by the Food and Drug Administration, and that possibly the code lot placed against these contaminated articles was only in the 121 cases of peaches and that the United States marshal erred in seizing peaches in excess of 121 cases.

On 12-3-63, upon motion of the Government, an order was entered permitting the Food and Drug Administration to obtain a representative sample for examination of the contents of the additional 429 cases of the article which had been seized. On 1-27-64, Southern States Canning Co., filed an answer in which the claimant represented: that official sampling had been handled improperly in that 121 cases only had been sampled whereas the United States marshal had seized 550 cases; that the claimant neither admitted nor denied the allegation of adulteration, contending that the lot of peaches as a whole had not been inspected; that the claimant's history was indicative of a reputable packing business; that the Food and Drug Administration had not taken samples of the 429-case lot as permitted by order of the court, and that the claimant had been advised by the United States attorney that the 429-case lot contained the same four can marks as the 121 cases analyzed originally and there was no reason to collect samples of the entire lot.

On 2-12-64, the Government filed a motion for summary judgment on the basis that all of the code lots seized had previously been tested and on the basis of the conditions which were found at the claimant's canning plant on 7-11-63 and 7-19-63. On 3-5-64, a default decree of condemnation was filed, and the article was donated to a governmental institution for use as animal food only.

29555. Canned peaches. (F.D.C. No. 49407. S. No. 25-910 X.)

QUANTITY: 678 cases of 24 cans each, at Bedford Heights, Ohio.

SHIPPED: 8-19-63, from Easley, S.C., by Jones Canning Co.

LABEL IN PART: (Can) "First Mate Halves Yellow Freestone Peaches in Heavy Syrup * * * Distributed by Seaway Foods, Inc., Cleveland, Ohio."

LIBELED: 10-11-63, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained *Drosophila* flies and other insects; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-4-63. Consent—destruction.

29556. Canned plums. (F.D.C. No. 48771. S. No. 88-072 V.)

QUANTITY: 64 cases, of 24 cans each, at Livonia, Mich.

SHIPPED: 10-1-62, from Silverton, Oreg., by Kolstad Canneries, Inc.

LABEL IN PART: (Can) "Oregon Beauty Brand Purple Plums In Heavy Syrup
Contents 1 Lb. 14 Oz.—Packed by Kolstad Canneries, Inc. Silverton, Oregon."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 2.07 percent short weight.

LIBELED: 5-13-63, E. Dist. Mich.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents.

DISPOSITION: 6-11-63. Default—delivered to a public institution.

FROZEN FRUIT

29557. Frozen blueberries. (F.D.C. No. 43907. S. Nos. 11-809 P, 75-580 P.)

QUANTITY: 1,400 30-lb. unlabeled lugs at Chicago, Ill., in possession of Chicago Cold Storage Co.

SHIPPED: 8-17-59, from Quebec, Canada, by Alfred Tremblay.

RESULTS OF INVESTIGATION: The article was shipped fresh and was later frozen at Chicago Cold Storage Co.

LIBELED: 11-12-59, N. Dist. Ill.

CHARGE: 402(a) (3)—while held for sale, contained moldy, decomposed, blueberries, 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor and (2) an accurate statement of the quantity of contents; and 403(i) (1)—when shipped, the article failed to bear a label containing the common or usual name of the food.

DISPOSITION: The article was claimed by Lester Lawrence & Son, Inc., Chicago, Ill., and on 12-21-59, a consent decree of condemnation was entered and the article was released for the purpose of bringing it into compliance with the law. The time for complying with the terms of the decree was extended several times. Attempts at reconditioning were unsuccessful and, on 5-22-63, the article was destroyed.

VEGETABLES AND VEGETABLE PRODUCTS

29558. Dried navy beans. (F.D.C. No. 49646. S. No. 29-990 X.)

QUANTITY: 1,489 100-lb. bags, at Lawrence, Kans., in possession of Stokely-Van Camp Co., Inc.

SHIPPED: Between 11-12-63 and 11-19-63, from Lowell, Mich.

LIBELED: 12-17-63, Dist. Kans.

CHARGE: 402(a) (3)—contained bird excreta; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 2-5-64. Consent—claimed by Stokely-Van Camp, Inc. Segregated, 26 bags destroyed.

29559. Dried pinto beans. (F.D.C. No. 49793. S. Nos. 38-745/6 A.)

QUANTITY: 171 100-lb. bags at El Paso, Tex., in possession of Alfred M. Lewis, Inc.

SHIPPED: 8-27-63 and 10-5-63, from Denver, Colo.

LIBELED: 2-6-64, W. Dist. Tex.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.